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NOTICE OF ALLOWANCE AND FEE(S) DUE

21972 7590 09/19/2008

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-I
LEXINGTON, KY 40550-0999

EXAMINER	
THOMPSON, JAMES A	
ART UNIT	PAPER NUMBER
2625	
DATE MAILED: 09/19/2008	

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,141	03/25/2004	Adam J. Ahne	2003-0455.02	7388

TITLE OF INVENTION: USER-SELECTABLE FUNCTIONS FOR USE IN OUTPUT DEVICES TO GENERATE BACKGROUND IMAGES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$300	\$0	\$1740	12/19/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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Complete and send this form, together with applicable fee(s), to: **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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21972 7590 09/19/2008

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

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10/809,141	03/25/2004	Adam J. Ahne	2003-0455.02	7388

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nonprovisional	NO	\$1440	\$300	\$0	\$1740	12/19/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
THOMPSON, JAMES A	2625	358-001900

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

"Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): Individual Corporation or other private group entity Government

4a. The following fee(s) are submitted:

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

Issue Fee
 Publication Fee (No small entity discount permitted)
 Advance Order - # of Copies _____

A check is enclosed.
 Payment by credit card. Form PTO-2038 is attached.
 The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS; SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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LEXMARK INTERNATIONAL, INC. INTELLECTUAL PROPERTY LAW DEPARTMENT 740 WEST NEW CIRCLE ROAD BLDG. 082-I LEXINGTON, KY 40550-0999				THOMPSON, JAMES A
				ART UNIT 2625 PAPER NUMBER DATE MAILED: 09/19/2008

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 920 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 920 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability	Application No.	Applicant(s)
	10/809,141	AHNE ET AL.
	Examiner	Art Unit
	James A. Thompson	2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- This communication is responsive to 30 June 2008.
- The allowed claim(s) is/are 1-10,12-15,17-30,32-35,37,38 and 40-43.
- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - All
 - Some*
 - None
 of the:
 - Certified copies of the priority documents have been received.
 - Certified copies of the priority documents have been received in Application No. _____.
 - Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 * Certified copies not received: _____.
- Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.
- A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
- CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached 1) hereto or 2) to Paper No./Mail Date _____.
 - including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
 Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
- DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- Notice of References Cited (PTO-892)
- Notice of Draftperson's Patent Drawing Review (PTO-948)
- Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
- Examiner's Comment Regarding Requirement for Deposit
of Biological Material
- Notice of Informal Patent Application
- Interview Summary (PTO-413),
Paper No./Mail Date _____.
- Examiner's Amendment/Comment
- Examiner's Statement of Reasons for Allowance
- Other _____.

/Edward L. Coles/
Supervisory Patent Examiner, Art Unit 2625

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In claim 1, line 5 **change** "potion" **to** "portion".

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Remarks, filed 30 June 2008, with respect to the prior art rejections of the claims have been fully considered and are persuasive. The prior art rejections of the claims have been withdrawn. Further, an Examiner's Amendment is submitted above to correct what is clearly a simple clerical error in claim 1.

Allowable Subject Matter

2. Claims 1-10, 12-15, 17-30, 32-35, 37, 38 and 40-43 are allowed.

The following is an examiner's statement of reasons for allowance:

Claim 1 recites a device for capturing and printing image data. The device has a user interface that allows a user to select one of a plurality of capture-to functions. Based on the selection, the image capturer of the device captures a particular portion of an original image. The size, shape or intensity, as well as the particular portion that is captured, is based on the selection of the capture-to function. Then, the captured first image is printed as the background layer in the printed copy. This particular device is advantageous since the device can automatically determine a portion of the original image to use as a printed background image based on the capture-to function, such as capture-to watermark, capture-to header/footer, and so on. The particularly desired use of the captured portion determines what portion is captured and how the portion is captured and used as a background image.

Presently amended independent claim 1 is not taught by the previously cited combination of references Dotsubo (US-6,556,243 B1) and Schinner (US-2004/0218206 A1). Particularly, the combination of references does not teach that a background image is captured from only a portion of the original image, the portion being determined by the capture-to function selected by the user. Further, Examiner has not discovered the particular combination of features recited in claim 1 in the prior art, either in a single reference or in an obvious combination of references. Accordingly, claim 1 is deemed allowable over the prior art.

Claims 2-10, 12-15, 17-20 and 41 all depend from claim 1, either directly or indirectly. Thus, said claims are also deemed allowable over the prior art at least due to their respective dependencies from allowable claim 1.

Independent claim 21 is a method for capturing and printing image data, including the background layer of an image. Claim 21 embodies similar features as claim 1, including the features deemed allowable over the prior art. Therefore, claim 21 is deemed allowable for reasons similar to those given for claim 1.

Claims 22-30, 32-35, 37, 38 and 40 all depend from claim 21, either directly or indirectly. Thus, said claims are also deemed allowable over the prior art at least due to their respective dependencies from allowable claim 21.

Independent claim 42 is a simpler method than claim 21. However, claim 42 contains all of the features found in claims 1 and 21 that are deemed allowable over the prior art. Therefore claim 42 is deemed allowable over the prior art for reasons similar to those given for claims 1 and 21.

Claim 43 depends from claim 42 and is therefore deemed allowable over the prior art at least due to its dependency from allowable claim 42.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is (571)272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Edward L. Coles/
Supervisory Patent Examiner, Art Unit 2625

/James A Thompson/
Examiner, Art Unit 2625